

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONY RAY BLACKWELL, 1428023,

Petitioner,

v.

**WILLIAM STEPHENS, Director
Texas Department of Criminal Justice,
Correctional Institution Division,**

Respondent.

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Civil Action No. **3:11-CV-910-L**

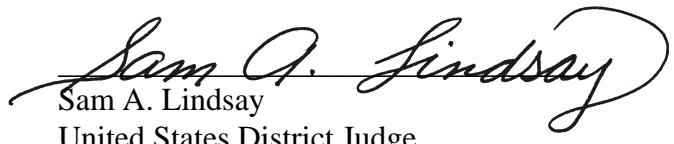
ORDER

On January 16, 2015, Magistrate Judge Paul D. Stickney entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) recommending that Petitioner’s Motion Seeking to Reopen Case Pursuant to Federal Rule 60(b)(6) from Denial of His 28 U.S.C. § 2254 Petition (“Motion to Reopen”) (Doc. 28), filed December 16, 2014, be construed as a successive petition under 28 U.S.C. § 2254 and transferred to the United States Court of Appeals for the Fifth Circuit (“Fifth Circuit”) for consideration. No objections to the Report were received by July 10, 2015, the extended deadline for filing objections.

After considering the motion, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **construes** Petitioner’s Motion to Reopen (Doc. 28) as a successive habeas petition under 28 U.S.C. § 2254. When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. Accordingly, the court **directs** the clerk of the court to: (1) term Petitioner’s Motion to Reopen (Doc. 28); (2) open a new habeas case for administrative purposes only; (3) file Petitioner’s Motion to

Reopen (Doc. 28) in the new case as a section 2254 petition with a filing date of July 17, 2015; (4) assign the new case to this court and Magistrate Judge Stickney; (5) file a copy of the Report (Doc. 29) and this order accepting the findings and conclusions of the magistrate judge in the new case; and (6) and, without further judicial action, immediately **transfer** Petitioner's section 2254 habeas petition (Doc. 28) to the Fifth Circuit for determination.

It is so ordered this 17th day of July, 2015.



Sam A. Lindsay
United States District Judge